# Official Publication of the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience & Interior Design

THE COMMUNICATOR

2013 VOLUME 18, NUMBER 2



## Letter from the Chair

DOUG COOLEY, PROFESSIONAL ENGINEER

I hope you all had a wonderful summer and are enjoying my favorite season with the crisp air and colorful foliage. The four distinct seasons that we are fortunate to have here in Minnesota are

why we all live here and love it.

Before I give you an update on some of the current activities of the Board, I thought I would give you a little summary of the Board makeup and how we function. As you know, the Board provides licenses for Architects, Engineers, Land Surveyors, Landscape Architects, Geologists, Soil Scientists and Certified Interior Designers. The current numbers for the State of Minnesota can be summarized as follows:

A 1 **	2.515
Architects	3,515
Professional Engineers	12,955
Land Surveyors	618
Landscape Architects	426
Professional Geologists	578
Professional Soil Scientists	74
Certified Interior Designers	715

The AELSLAGID Board consists of 21 members appointed by the Governor. Three members are licensed Architects, five members are licensed Professional Engineers, two members are licensed Landscape Architects, two members are licensed Land Surveyors, two members are Certified Interior Designers, one member is a licensed Professional Geologist, one member is a licensed Professional Soil Scientist and five are public members.

In 2006, Harvey Harvala, a Professional Engineer and Board Chair at the time, asked me if I'd be interested in joining the State Board of Licensure. Harvey is an individual for whom I have a great deal of respect, not only as a Professional Engineer, but also as a friend. He has amazing talents and great leadership skills. My initial reaction to his request was "How do you possibly get anything done with 21 Board members?" With his persuasive talents, he convinced me to join the Board and I soon realized that his description of the Board being very efficient was very accurate then and holds true today. I'm constantly amazed at the scope and breadth of knowledge of all the Board members and how efficiently we come to consensus on topics and subjects at hand. Each Board member is asked to sit on either the Architect, Landscape Architect, Certified Interior Designer (ALACID) Section Committee or the Engineer, Land Surveyor, Geoscience (ELSGEO) Section Committee, as well as

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www.aelslagid.state.mn.us

#### BOARD MEMBERS (TERM ENDS)

Doug Cooley, PE (2014) BOARD CHAIR

Carl Peterson, CPA, Public Member (2017) VICE CHAIR

Mary Deeg, CID (2017) Secretary

David Krech, PE (2014)

**TREASURER** 

Lisa Hanni, LS (2015)

IMMEDIATE PAST CHAIR

Lyn Berglund, CID (2016)

Tanya Digiovanni, Public Member (2017)

David Fisher, CBO, Public Member (2017)

Terry Groshong, Architect (2015)

James Grube, PE (2017)

Robert Gunderson, LA (2016)

Wayne Hilbert, Architect (2017)

Bruce Johnson, PG (2015)

William Kuretsky, JD, Public Member (2015)

David Landecker, LS (2016)

Dennis Martenson, PE (2015)

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Marjorie Pitz, LA (2014)

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#### **Katherine Berg**

LICENSING & EXAM: FE/LA/GEOSCIENCE

#### Joshua Reynolds

LICENSING & EXAM: FS/LS/REINSTATEMENTS

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either the Complaint Committee, Credentialing Committee or the Rules Committee. Each Committee Chair reports to the entire Board at the monthly Board Meetings. I am humbled by the knowledge and expertise of this phenomenal group of individuals. I'd be remiss if I did not recognize the extremely competent staff that also makes the Board work so well.

Someone recently asked me why I joined the State Board of Licensure to begin with. As I indicated, Harvey Harvala was a great influence and a mentor to me and was instrumental in that decision. We often times don't get questions asked of us as to why we made decisions 10 or 20 years ago, but I think it's healthy for us to ask ourselves those questions like, why we chose the profession that we did, why we are with the companies that we are with, why we made the decisions that we did, etc. For me this question confirmed and validated not only my decision to be on the State Board of Licensure, but also my decision to choose the profession that I did. Since I was taken back a little by the question, I did pause and continued my response by saying that the main reason I joined the Board of Licensure is that I am passionate about what I do as an engineer and I believe that I lived a blessed life and in a small way this helps me to give back to the community.

One of the Board's goals going forward is to get our proposed statute changes that we have been working on over the past couple of years authorized and approved this legislative session. The **proposed** changes include:

#### • Ethics in Education

- Requires 2 hours of the current 24 required biennial continuing education hours to be dedicated for ethics.

#### • Strengthen the Practice Act

- Clarify that the designation "PE" refers only to the "Professional Engineer" and may only be used by a licensed professional engineer.
- Extend from 2 years to 4 years the period of time required for licensee to maintain documentation of continuing education. This enables the licensee to prove their education during an audit.
- Clarify the definition of the practice of land surveying.
- Protect against the unauthorized use of professional titles.

#### Housekeeping

- Remove several obsolete areas of language in multiple sections. For example:
  - The statutes refer to the Board developing exam questions whereas the exams are all developed by National Councils for each profession.
  - Remove language referencing accrediting bodies that no longer exist.

Finally, I would like to take a moment to congratulate Carl Peterson, CPA, and current Public Member and Vice Chair of the Board, on receiving the Minnesota Society of CPA's Distinguished Service Award.

I am grateful for the opportunity to live in State of Minnesota with our 4 great seasons, serving on the AELSLAGID Board and protecting the health, safety and welfare of the public.

Have a great day!

## Continuing Education

s the time for license and certificate renewal approaches, it may be a good time to review the requirements spelled out in MN Statute § 326.107 on what constitutes continuing education activity as well as the requirements for supporting documentation.

Continuing education (CE) must consist of learning experiences which enhance and expand the skills, knowledge and abilities of practicing professionals, as well as benefit the health, safety and welfare of the public. CE may involve technical, nontechnical, regulatory, ethical, or business practice topics. The statute goes on to identify multiple CE activities, although not a limiting list of CE activities, which satisfy the professional development requirement.

There is a broad range of CE activities that are inexpensive and may be overlooked or not considered when licensees or certificate holders are tallying their Professional Development Hours (PDH) or requesting an exemption for CE, including:

- · Self-sponsored/in-house educational programs;
- Providing professional service to the public which draws upon the professional expertise of the licensee or certificate holder; and
- · Participation in self-study activities presented by correspondence, Internet, video, audio, etc., with a verification process.

Continuing Education courses and activities must meet five basic criteria, including:

- Clear purpose and objective of the activity to maintain, improve or develop new and relevant skills and knowledge;
- Content of the activity is well organized and presented in a sequential manner;
- Activity has been pre-planned and includes an opportunity for input by the target group or person attending;
- Activity is presented by a person who is well-qualified by education or experience; and
- Activity and participation is documented for record keeping and reporting.

The Board conducts audits of a percentage of its licensees and certificate holders and requires those audited to submit documentation of at least 24 professional development hours of activity over the previous two years. Documentation must include what is required by the statute: a description of the activity, the date held, and the starting and ending times. It is much easier to maintain your records as you participate in continuing education activities than to hunt down the information to report for renewal or in an audit

It's never too early to begin planning for your next 24 PDHs and make continuing education an ongoing process in your professional practice.

### TIPS FOR A SUCCESSFUL CONTINUING EDUCATION AUDIT

The Board conducts random audits for proof of completion of the continuing education requirements. Important information to remember:

- You MUST be in compliance with the continuing education requirement BEFORE you renew.
- Renewals and continuing education are due by midnight on June 30 of even-numbered years.
- DON'T check the box stating you have completed continuing education if you do not have at least 24 hours accumulated.
- You MUST have supporting documentation of all of your continuing education activities showing the date and times of attendance.

For more information regarding continuing education, visit the Board's website at www.aelslagid.state.mn.us/conted.html.

#### **2012 AUDIT STATISTICS**

Number of Individuals Audited: 348 Percentage of EACH profession: 2%

As a result of the continuing education audit, the Board opened several complaints for reasons such as: lack of response to requests for documentation, lack of documentation and noncompliance with the continuing education requirements.

#### **BOARD MEMBER OPENINGS**

The terms of three Board members are expiring in January 2014.

Professional Engineer (2) Landscape Architect (1)

If you are interested in applying for a position, please download the application from the Minnesota Secretary of State website at www.sos.state.mn.us or contact the Board office at 651-296-2388.

Applications are accepted at any time.

## Disciplinary Actions

Disclaimer: Every effort has been made to ensure that the following enforcement information is correct; however, this information should not be relied upon without verification from the Board office. It should be noted that the names of companies and individuals listed may be similar to the names of parties who have not had enforcement actions taken against them. Disciplinary orders are public data and copies may be obtained by contacting the Board office or by viewing the order on the web page at www.ael-slagid.state.mn.us.

Please note that the following are <u>summaries</u> of the facts and disciplinary actions taken since the last newsletter. Full orders can be found on the Board's website.

#### **Disciplinary Actions:**

#### In the Matter of Dennis Stanley Nelson Unlicensed

#### **Allegations:**

- Mr. Nelson was first licensed as a Professional Engineer in 1988.
- His license expired in 2012. Mr. Nelson is not eligible to renew his license because: (a) he has not complied with the ethics course requirement in a Stipulation and Order issued by the Board on December 2, 2011, and (b) when Respondent attempted to renew his Minnesota Professional Engineer license online in 2012, in response to a renewal application question about being the subject of any disciplinary actions in the preceding two years, Mr. Nelson did not report that he had been disciplined by the Board in 2011.
- Mr. Nelson held himself out as a Professional Engineer and practiced professional engineering without a Minnesota Professional Engineer license by signing and certifying five (5) documents for Gopher State Contractors, Job #32235, on July 20, 2012.

**Enforcement Action:** On April 18, 2013, the Board issued a *Cease and Desist Order and Notice of Right to Hearing*. Mr. Nelson was ordered to cease and desist from holding himself out as a professional engineer in Minnesota, from practicing professional engineering in Minnesota, and from further violations of Minnesota Statutes sections 326.02 through 326.15 (2012) until such time as his Minnesota Professional Engineer license is reinstated by the Board.

Mr. Nelson was notified of his right to request a hearing. He did not request a hearing, therefore the Order became final and remains in effect until it is modified or vacated by the Board.

#### In the Matter of Stephen Hoffman Professional Engineer License #21040

#### **Facts:**

- Mr. Hoffman was first licensed as a Professional Engineer in Minnesota in 1990.
- His license will expire in 2014.
- On June 30, 2004, Mr. Hoffman renewed his license for the 2004-2006 renewal period. On the renewal application, it asked the question: "Have you ever had a license disciplined, denied, surrendered, suspended or revoked?" Mr. Hoffman checked the "no" box. Above Mr. Hoffman's signature on the form, it stated: "I swear or affirm that I have read the foregoing renewal application and that the statements are true and complete." This was the first time the Board asked this question on a renewal application.
- The Commonwealth of Massachusetts issued a *Final Decision and Order* to Mr. Hoffman on August 30, 2000, revoking his license to practice engineering. Mr. Hoffman failed to disclose this on his 2004-2006 renewal application.
- On September 25, 2001, the South Carolina Department of Labor, Licensing & Regulation before the Board of Registration for Professional Engineers and Land Surveyors, issued a *Consent Order* publicly reprimanding Mr. Hoffman. Mr. Hoffman failed to disclose this disciplinary action on his 2004-2006 renewal application.
- With his 2012-2014 Minnesota renewal application, Mr. Hoffman disclosed that he had disciplinary proceedings initiated against him by six (6) separate jurisdictions since 1997: Massachusetts, South Carolina, Texas, New Hampshire, Alabama and Tennessee. Mr. Hoffman stated: "To the best of my knowledge and recollection, I first notified the states I was licensed in, including Minnesota, of the Massachusetts matter in 1998 while the matter was still pending in front of the Massachusetts Board. Then, in 2000 after the Massachusetts Board Order was entered and under appeal, I attempted to disclose to, and certainly intended to notify, the required professional engineering authorities of the Order and my appeal. I have in my records a copy of both letters that I believe I sent to notify the licensing boards either in separate disclosures or as part of the renewal application process." The Board has no record of receiving either the 1998 letter or the 2000 letter in Mr. Hoffman's licensing file.
- Mr. Hoffman disclosed that he has taken corrective measures for future renewals as he is licensed in thirty-eight (38) states. The Complaint Committee was satisfied with the corrective action Mr. Hoffman has taken.

**Enforcement Action:** On May 3, 2013, the Board issued a *Stipulation and Order*. Mr. Hoffman was reprimanded for

the foregoing conduct and ordered to pay a civil penalty of \$2,000 to the Board.

#### In the Matter of Stanley J. Ross Architect License #24982 Certified Interior Design Certificate #C01149

#### **Facts:**

- Mr. Ross was first licensed as an Architect in Minnesota in 1996 and was issued a Certified Interior Design certificate number in 1998.
- Both his license and certificate expired in 2010.
- Mr. Ross reinstated his license and certificate on February 24, 2011.
- During the time his Architect license was lapsed (July 1, 2010 through February 24, 2011), Mr. Ross held himself out and practiced as a "Licensed Architect" by signing and certifying the architectural plans for the Wonderland Learning Center, located in St. Paul, Minnesota, on February 4, 2011.
- Mr. Ross submitted his *Application for License/Certificate Reinstatement through June 30, 2012* and signed an *Affidavit for Reinstatement* on February 23, 2011 affirming that he did not represent himself as an architect without proper licensure nor will he do so until such time as his license has been reinstated by the Board. In the same *Affidavit*, he also affirmed that he did not perform or offer to perform architectural services during the lapse of his license.
- It is alleged that Mr. Ross misrepresented himself in the *Affidavit for Reinstatement* as he had certified the plans as an architect for the Wonderland Learning Center on February 4, 2011.

Enforcement Action: On May 3, 2013, the Board issued a Stipulation and Order. Mr. Ross was reprimanded for the foregoing conduct and ordered to pay a civil penalty of \$5,000 to the Board. Additionally, Mr. Ross must complete two (2) hours of coursework in professional ethics, approved in advance by the Complaint Committee. The(se) ethics course(s) shall not count toward any continuing education requirements in the 2012-2014 renewal period or beyond.

#### In the Matter of Jeff Javens Professional Engineer License #48744

#### **Facts:**

- Mr. Javens was first issued a license as a Professional Engineer in Minnesota in 2011.
- His license expired on June 30, 2012 and Mr. Javens reinstated his license in Minnesota on November 29, 2012.
- Mr. Javens self-reported that he represented himself as a Professional Engineer and practiced professional engineering during the time his license was expired by signing and sealing plans for two (2) commercial projects located in Mankato, Minnesota and by using the title "PE" in his signature block.

**Enforcement Action:** On May 3, 2013, the Board issued a *Stipulation and Order*. Mr. Javens was reprimanded for the foregoing conduct and ordered to pay a civil penalty of \$1,000 to the Board.

#### In the Matter of Mark W. Willrodt Professional Engineer #40152

#### Facts:

- Mr. Willrodt was first licensed as a Professional Engineer in Minnesota in 2000.
- His license expired in 2012 and he reinstated his license on January 28, 2013.
- Mr. Willrodt self-reported that he may have held himself out as a Professional Engineer during the period his license was expired because his e-mail signature block and business cards indicated that he was a PE.
- Mr. Willrodt stated that his e-mails are primarily sent within the company, but that he does correspond with vendors and contractors outside the company.
- Mr. Willrodt enclosed his business card and stated that: "I am certain I didn't distribute any of these business cards from July 1, 2012 through January 22, 2013. Since my work is internal to the company, my business cards are rarely used, except for meeting with new vendors or contractors. I confirmed that I wouldn't have used my business cards by checking my work calendar over this time period to see if I met with anyone I didn't already have a working relationship."

**Enforcement Action:** On August 27, 2013, the Board issued a *Stipulation and Order*. Mr. Willrodt was reprimanded for the foregoing conduct and ordered to pay a civil penalty of \$500 to the Board.

#### In the Matter of Jeff Lawler Unlicensed

#### **Facts:**

- Mr. Lawler is not currently and never has been licensed by the Board as a Landscape Architect in the State of Minnesota.
- In the LinkedIn website, www.LinkedIn.com, Mr. Lawler used the title of "Jeff Lawler, Landscape Architect & Owner, J. Lawler Design, Greater Minneapolis-St. Paul Area."
- Mr. Lawler provided the Board a copy of his business card which contained the following wording: "Jeffrey M. Lawler, ASLA, Associate Member American Society of Landscape Architects."
- Mr. Lawler used, in connection with his name, a title and description that tends to convey the impression that he is licensed as a Landscape Architect in Minnesota.
- In response to the Board's request, Mr. Lawler submitted plans for two (2) religious sites.
- Mr. Lawler engaged in the unlicensed practice of Landscape Architecture by
  - (a) setting the approaches for the structures in general for two (2) church projects located in Minnesota;
  - (b) locating the pergola at the Richfield, Minnesota church and relocating the arbor at the Minneapolis, Minnesota church; and
  - (c) designing the rain garden at the Minneapolis, Minnesota church.

Enforcement Action: On August 27, 2013, the Board issued

a Settlement Agreement and Cease and Desist Order. Mr. Lawler shall cease and desist from practicing landscape architecture and holding himself out as a Landscape Architect in Minnesota until such time as he becomes licensed as a Landscape Architect in the State of Minnesota.

#### In the Matter of Terry Coss Professional Engineer License #20284

#### **Facts:**

- Mr. Coss was first license as a Professional Engineer in Minnesota in 1990.
- His license expired on June 30, 2012 and he reinstated his license on November 19, 2012.
- With his reinstatement paperwork, Mr. Coss stated that he had not represented himself as a professional engineer since he does not perform that function, however his business cards listed him as a PE.
- He stated that he provided these business cards to others in the course of ordinary business as a convenient way to exchange contact information, but never as an offer or solicitation to provide PE services or in a context where licensure was relevant.
- During part of the period in question, the auto signature block on Mr. Coss's work email account identified him as "Terry Coss, PE, Environmental Director..."

**Enforcement Action:** On August 27, 2013, the Board issued a *Stipulation and Order*. Mr. Coss was reprimanded for the foregoing conduct and ordered to pay a civil penalty of \$1,000 to the Board.

#### **OTHER ACTIONS:**

Pursuant to Minnesota Statutes section 270C.72, subdivision 1 (2012), the Board must suspend a professional license if the license holder owes delinquent state taxes, penalties, or interest, and the Minnesota Commissioner of Revenue so notifies the Board.

#### In the Matter of Brian Douglas Huotari Land Surveyor License #48463

On June 21, 2013, the Board received a letter of License Revocation/Suspension from the Minnesota Department of Revenue, which advised the Board that Mr. Huotari has an overdue tax liability.

**Enforcement Action:** On June 24, 2013, the Board issued an *Order for Suspension of Land Surveyor License #48463*. Mr. Huotari's license is suspended pursuant to Minnesota Statutes section 270C.72, subdivision 1 (2012). The suspension shall take effect immediately and shall remain in effect until the Board receives a Tax Clearance Certificate from the Minnesota Department of Revenue.

#### In the Matter of Corwin Reese Professional Engineer License #49192

On August 14, 2013, the Board received a letter of License Revocation/Suspension from the Minnesota Department of

Revenue, which advised the Board that Respondent has an outstanding tax liability.

**Enforcement Action:** On August 21, 2013, the Board issued an *Order for Suspension of Professional Engineer License* #49192. Mr. Reese's license is suspended pursuant to Minnesota Statutes section 270C.72, subdivision 1 (2012). The suspension shall take effect immediately and shall remain in effect until the Board receives a Tax Clearance Certificate from the Minnesota Department of Revenue.

#### In the Matter of Corwin Reese Professional Engineer License #49192

On August 29, 2013, the Board received notice from the Minnesota Department of Revenue ("Department") that Mr. Reese had been issued a clearance certificate under the authority of Minnesota Statutes section 270C.72 (2012). The Department informed the Board that Mr. Reese does not owe the State of Minnesota any uncontested delinquent taxes, penalties or interest and has filed all required forms.

**Action:** On September 4, 2013, the Board issued an *Order to Rescind Suspension of Professional Engineer's License #49192*. The License Suspension Order issued to Respondent on August 19, 2013 is rescinded and shall have no further force and effect.

Congratulations

**Doug Cooley,** PE, received the American Council of Engineering Companies of Minnesota (ACEC/MN) *Tom Roche Lifetime Achievement Award*. This award is bestowed annually to an individual who has contributed a great deal over the course of their career to the profession of consulting engineering, ACEC/MN and the community.

Doug was appointed to the Board in 2006 and is currently serving as Board Chair.

**Carl Peterson,** CPA, Public Member, received the Minnesota Society of CPAs *Distinguished Service Award*. This award is the MNCPA's highest honor bestowed upon members, recognizing contributions to the Society that go above and beyond.

Carl was appointed to the Board in 2009 and is currently serving his second year as Vice Chair of the Board.

**Dennis Martenson**, PE, has been appointed to serve on the National Council of Examiners for Engineering and Surveying (NCEES) Examinations for Professional Engineers (EPE) Committee. Mr. Martenson was also recently reappointed to the American Society of Civil Engineers (ASCE) Committee on Professional Conduct (CPC) and was reelected to the presidency of the United Engineering Foundation (UEF)."

Dennis was appointed to the Board in 2012.

#### WHEN TO "CERTIFY" YOUR REPORTS

By Dennis Martenson, PE

stances of engineering reports not being certified (aka stamped or sealed) by a professional engineer, this article is to remind Professional Engineers of their responsibilities.

Minnesota Statute 326.12, subd. 3, requires a licensee to provide a certified signature for "Each plan, drawing specification, plat, **report** or other document ... prepared by a ... licensed engineer ... must bear the signature of the licensed ... person preparing it or the signature of the licensed ... person under whose direct supervision it was prepared." In addition, Minnesota Rule 1800.4200, subp. 1, requires "The certification and signature on ... **reports** ... is mandatory, as provided by Minnesota Statutes, section 326.12, subdivision 3." (Bolded for emphasis).

You may wonder, and maybe that is why some recent instances were brought to our attention, when does this requirement apply for reports? It does not apply in all instances, i.e. there are some exceptions. In addition, only a licensed engineer either preparing, or under whose direct supervision a report is prepared, may certify/stamp/seal the report. When in question, it is suggested you err on the side of including the certification for any report either prepared by you or under your direct supervision as a licensed professional engineer.

Examples of reports that do not need to be certified:

- Intra-office or Intra-company engineering reports
- Engineering reports that are clearly marked as drafts and/or preliminary

Examples of reports that do need to be certified:

- Engineering reports that are submitted to a public agency for either review or permitting purposes
- Engineering reports (signature and certification is only required on the first page)

Who may certify/stamp/seal reports?

 Only the licensed professional who either prepared the work or under whose direct supervision the work was prepared

All licensed professional engineers are reminded that you may not certify/stamp/seal any reports if your license has expired, been revoked or suspended. In Minnesota, a stamp, printed signature, or electronically-created signature may be used for certification on reports, or other documents requiring same, so long as it creates an accurate depiction of the licensed professional's actual signature. Licensees also may not sign reports, or other documents requiring same, if the licensee is not qualified to certify/stamp/seal by virtue of education and licensure.

#### Complaint Statistics July 1, 2012 - June 30, 2013

Number of complaints filed: 106 Number of disciplinary actions: 13 Number of open complaints: 60

Allegation	Total
Complaint Withdrawn	1
Failure to Comply with CE Audit	19
Falsifying Information on Renewal	3
Holding Out & Practice without a License	26
Holding Out & Unlicensed Practice	12
Holding Out	12
Misconduct - Negligence - Incompetence	14
MN Revenue Tax/Child Support Liability	1
Monitor for Compliance with Order	9
Other	4
Out of Compliance with Board Order	1
Unlicensed Practice	4

It is the duty of a licensee or certificate holder to report possible violations of the Board's Statutes and Rules. To file a complaint, please complete the Complaint Registration Form found on the Board's website at www.aelslagid.state.mn.us/complaints.html. You must sign and date the form and deliver it to the Board office in person or via U.S. Mail. *The Board cannot accept anonymous complaints or complaints submitted via e-mail or fax.* 

If you have questions about how to file a complaint or any other complaint or disciplinary matter, please contact the Board's investigator, Lynette DuFresne, at 651-757-1510.

Each licensee should consider their education and level of expertise prior to certifying/stamping/sealing a report, i.e. does it cover an area for which you are qualified in due to education and/or experience? The licensee may approve, i.e. certify/stamp/seal, only those reports which protect the health, safety and welfare of the public.

Please consult Minnesota Statute 326.12, subd. 3, and Minnesota Rule 1800.4200, subp. 1, for the full statutory and rule language on this issue.

Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design

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December 2013